

### **REMARKS/ARGUMENTS**

The Office Action of January 24, 2011, has been reviewed and these remarks are responsive thereto. Claims 1, 5, and 6 have been amended, and claims 2 and 3 have been canceled without disclaimer or prejudice. Claim 8 is withdrawn. Claims 9-14, 16, 18, and 19 are canceled without prejudice or disclaimer as being drawn to a non-elected invention. Applicants reserve the right to pursue the subject matter of the canceled claims in one or more continuation applications. Claims 1, 4-8, 15, and 17 remain pending. No new matter has been added. Reconsideration and allowance of the instant application are respectfully requested.

#### **Rejections under 35 U.S.C. § 102**

Claims 1, 15 and 17 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. Pub. No 2002/0183883 to Carr ("Carr").

Claim 1 cited that the electronic component is set within the plastic material forming the tube head. Hence, claim 1 was/is directed to the electronic component being within the tube head. Claim 1 has been amended to further recite that the electronic component is set within the plastic material forming "the shoulder of" the tube head.

The placement of the electronic component within the tube head allows an exchange of information between an external device and the electronic component. Suitable electronic components include those provided in smartcards, in particular RFID electronic components. Since the component is set in the mass of the plastic material forming the head, it can be used in an early stage of the production and used for monitoring the production of the tube, upon production of the head, by indicating, for example, the plastic materials used, the skirt structure used, the presence of specific additives in the material of the head or the skirt. See paragraph 11 of the specification.

In contrast, the package of Carr provides two separate elements; a closure and a container. The container itself comprises a container head. The electronic component, which is an array of sensors comprising a radio-frequency integrated circuit, is fixed to the closure by on or at the interior surface of the closure. Thus, the electronic component is not located within

plastic material forming the container head. Hence Carr is useless for monitoring the production of the container head.

Carr utilizes an integrated circuit device to monitor product tracking, inventory control, and promotion of the product in the package. The current invention allows tracking during the preparation of the package itself. Thus, the electronic component located in the closure of the package of Carr and the electronic component located inside the tube head of claim 1 have different purposes, and there would have been no reason to modify the teachings of Carr to arrive at the instant claims. Carr does not teach each and every element of the instant claims; hence, Carr cannot anticipate the instant claims. Withdrawal of the present rejection is requested.

### **Rejections under 35 U.S.C. § 103**

No document cited in the Office Action describes a tube head, or at least a tube part, comprising an electronic component, and more precisely an electronic component inside the shoulder of the tube head. Thus, the person having ordinary skill in the art would not have been motivated to modify teachings of Carr in any manner to arrive at the subject matter of claim 1.

Indeed, in Carr, the electronic component is fixed to the surface of the closure of the package. The electronic component is not located inside any part of the container of the package. During production of the package, the closure and the container are produced separately. Therefore, during manufacturing of the container of the package, there is no electronic component which can be used for the monitoring of the production of the container, whereas it is important to be able to correctly position the head part and the skirt part of the container, one relative to the other, for securing one with the other.

Moreover, in Carr, the electronic component is only used for conducting product promotion, storing, and disseminating product information such as product processing information, providing product quality assurance including tamper-evidence, efficient inventory control by enabling tracking of products [paragraph 24 of Carr]. That is, the intent of Carr is to trace the complete package after it has been assembled.

Claim 2 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Carr in view of French Patent No. 2,622,543 to Hermes (“Hermes”). Claim 2 has been canceled; hence, this rejection is moot.

Claim 4 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Carr in view of U.S. Patent No. 6,087,198 to Panasik ("Panasik"). Claim 4 depends on claim 1. Claim 1 has been amended as discussed above. In view of such amendment, Carr does not teach or suggest claim 1 and likewise does not teach or suggest claim 4. Panasik does not remedy the defects of Carr.

Panasik describes an electronic component, but does not teach or suggest placement of the electronic component within the plastic material forming a tube head. Hence one skilled in the art would not have modified the closure of Carr in view of Panasik to arrive at the instant claims. Withdrawal of this rejection is requested.

Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Carr in view of U.S. Patent No. 3,778,685 to Kennedy ("Kennedy"). Claim 5 depends on claim 1. Claim 1 has been amended as discussed above. In view of such amendment, Carr does not teach or suggest claim 1 and likewise does not teach or suggest claim 5. Kennedy does not remedy the defects of Carr.

Kennedy mentions an electronic component; however Kennedy is not concerned with a tube head but instead is directed to packaging of integrated circuit chips, and thus does not teach or suggest placement of the electronic component within the plastic material forming a tube head. Hence one skilled in the art would not have modified the closure of Carr in view of Kennedy to arrive at the instant claims. Withdrawal of this rejection is requested.

Claims 6 and 7 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Carr in view of Kennedy as applied to the above Claim 5, and further in view of U.S. Patent No. 5,944,206 to Cutler ("Cutler") and U.S. Patent No. 6,129,653 to Fredricks ("Fredricks"). Claims 6 and 7 depend on claim 5 which depends on claim 1. Claim 1 has been amended as discussed above. In view of such amendment, Carr does not teach or suggest claim 1 and likewise does not teach or suggest claims 5. Kennedy does not remedy the defects of Carr for the reasons discussed above. Cutler and Fredricks likewise do not remedy the defects of Carr.

Cutler and Fredricks are not directed to electronic components and do not teach or suggest placement of the electronic component within the plastic material forming a tube head. Hence one

skilled in the art would not have modified the closure of Carr in view of Kennedy, Cutler and/or Fredricks to arrive at the instant claims. Withdrawal of this rejection is requested.

It is believed that no fee is required for this submission. If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

Respectfully submitted,  
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